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| EXAMINER |
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ZHAO, DAQUAN

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2621

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03/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/674,995 | <b>Applicant(s)</b><br>KREINER ET AL. |  |
|                              | <b>Examiner</b><br>DAQUAN ZHAO       | <b>Art Unit</b><br>2621               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/16/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/16/2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2, 6, 7, 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basir et al (US 2003/0,154,009 A1), hereinafter referenced as Basir, in view of Brodsky et al (US 2003/0,058,341 A1), hereinafter referenced as Brodsky and further in view of Zimmerman et al (US 2005/0,021,197 A1), hereinafter referenced as Zimmerman.

In regards to claim 1, Basir teaches a method, comprising:

- storing in memory at least one of audio data and video data of an event, the video data comprising a series of picture frames (e.g. abstract, paragraph [0030], A/V data are stored in the circular buffer when an eccentric event has been detected; also see paragraph [0045] for audio data);
- storing at least one of the audio data and the video data in a loop buffer (e.g. abstract, paragraph [0030], circular buffer);
- receiving vehicular data describing powertrain management system information (e.g. paragraph [0034], data capture module gathers engine parameters, transmission status), electrical management system information (e.g. status lights), and chassis management system (e.g. airbag data) information;
- storing a set of rules specifying the vehicular data that causes a transfer of a contents of the loop buffer to the memory (e.g. paragraph [0037]-[0038], vehicle events and statistics is captured by the data capture module, the vehicle events and statistics corresponds to the claim “rules” because the system of Basir transfers the video data from the circular buffer to a storage device when the event happens);
- when the vehicular data satisfies a rule, then transferring the contents of the loop buffer to the memory to provide at least one of

time-delayed audio data and time-delayed video data, the time-delayed audio and the time-delayed video data preceding an event associated with the vehicular data that causes the transfer of the contents of the loop buffer to the memory; and (e.g. paragraph [0040]-[0041], occurrence of the eccentric event corresponds to the "rule");

- tagging at least one of the time-delayed audio and the time-delayed video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory (e.g. the non-visual vehicle and occupant data described in paragraph [0034], [0038]-[0039] are stored as the event data, paragraph [0043], and figure 6, the data capture module's control unit transmitting the captured video and **data from the non-volatile** storage to the computer for recreation of the events and the statistics of the vehicle can be view for accident recreation purposes. Therefore, the examiner considers the "data from the non-volatile storage" corresponds to the claimed metadata since the "data from the non-volatile storage" describes the statistics of a car accident (event), wherein the examiner has already the "event" corresponds to the claimed "rule" above).

Basir et al fail to teach when the data matches the data specified by the set of rules. Brodsky teaches when the data matches the data specified by the set of rule (see

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e.g. abstract, paragraphs 9). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Brodsky into the teaching of Basir for consistent video based detection of specific event (Brodsky et al, paragraph 8).

Basir and Brodsky fail to teach the powertrain management system information comprising an error code associated with powertrain system. Zimmerman teaches the powertrain management system information comprising an error code associated with powertrain system (e.g. paragraph 24, diagnostic error codes flag by engine or powertrain management system). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Zimmerman into the teaching of Basir and Brodsky for efficiency error detection.

**For claim 2**, Zimmerman et al teach receiving the vehicular data comprises receiving data representing an output from at least one or a yaw, a pitch, and a roll accelerometer (e.g. paragraph [0029]).

**For claim 6**, Basir et al teach communicating the contents of the loop buffer via a communication network (e.g. paragraph [0032] and figure 1, the memory bus between volatile storage 8 and non-volatile storage 9 corresponds to the communication network).

For claim 7, Basir teaches interfacing with a switch to transfer the contents of the loop buffer to the memory (e.g. paragraph 41, user trigger).

**For claim 8**, Basir et al teach receiving the vehicular data comprises receiving data representing an output from an electrical sensor (e.g. paragraph [0027]).

For claim 9, Basir teaches tagging the video data with metadata, the metadata providing a description of the contents (e.g. the non-visual vehicle and occupant data described in paragraph [0034], [0038]-[0039] are stored as the event data, paragraph [0043], and figure 6, the data capture module's control unit transmitting the captured video and **data from the non-volatile** storage to the computer for recreation of the events and the statistics of the vehicle can be view for accident recreation purposes. Therefore, the examiner considers the "data from the non-volatile storage" corresponds to the claimed metadata since the "data from the non-volatile storage" describes the statistics of a car accident (event), wherein the examiner has already the "event" corresponds to the claimed "rule" above).

**For claim 10**, Basir et al teach interfacing with means for sensing the event (e.g. paragraph [0027]).

5. Claims 11, 13, 15, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basir et al (US 2003/0,154,009 A1), and further in view of Brodsky et al (US 2003/0,058,341 A1).

In regards to claim 11, Basir teaches a method, comprising:

- storing in memory at least one of audio data and video data of an event, the video data comprising a series of picture frames (e.g. abstract, paragraph [0030], A/V data are stored in the circular buffer when an eccentric event has been detected; also see paragraph [0045] for audio data);

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- storing at least one of the audio data and the video data in a loop buffer (e.g. abstract, paragraph [0030], circular buffer);
- receiving vehicular data describing powertrain management system information (e.g. paragraph [0034], data capture module gathers engine parameters, transmission status), electrical management system information (e.g. status lights), and chassis management system (e.g. airbag data) information;
- storing a set of rules specifying the vehicular data that causes a transfer of a contents of the loop buffer to the memory (e.g. paragraph [0037]-[0038], vehicle events and statistics is captured by the data capture module, the vehicle events and statistics corresponds to the claim “rules” because the system of Basir transfers the video data from the circular buffer to a storage device when the event happens);
- when the vehicular data satisfies a rule, then transferring the contents of the loop buffer to the memory to provide at least one of time-delayed audio data and time-delayed video data, the time-delayed audio and the time-delayed video data preceding an event associated with the vehicular data that causes the transfer of the contents of the loop buffer to the memory; and (e.g. paragraph [0040]-[0041], occurrence of the eccentric event corresponds to the “rule”);



- tagging at least one of the time-delayed audio and the time-delayed video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory (e.g. the non-visual vehicle and occupant data described in paragraph [0034], [0038]-[0039] are stored as the event data, paragraph [0043], and figure 6, the data capture module's control unit transmitting the captured video and **data from the non-volatile** storage to the computer for recreation of the events and the statistics of the vehicle can be view for accident recreation purposes. Therefore, the examiner considers the "data from the non-volatile storage" corresponds to the claimed metadata since the "data from the non-volatile storage" describes the statistics of a car accident (event), wherein the examiner has already the "event" corresponds to the claimed "rule" above), the metadata further comprising audio (e.g. paragraph [0045]) and textual narration that describes the at least one of the time-delayed audio data and the time-delayed video data (e.g. paragraph [0043], and figure 6, "data from the non-volatile storage" describes the statistics of a car accident (event), figure 6 shows the text data for example "impact", "occupant", "environment" and "vehicle" and "13:05 Time", The examiner considers these data in figure 6 as text data that describes the video of what happen when the car accident occurs).

Basir et al fail to teach when the occurrence matches the particular occurrence specified in the set of rules Brodsky teaches when the occurrence matches the particular occurrence specified in the set of rules (see e.g. abstract, paragraphs 9-13). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Brodsky et al into the teaching of Basir et al for consistent video based detection of specific event (Brodsky et al, paragraph 8).

For claim 13, Basir et al teach wherein the particular occurrence that causes a transfer of the contents of the loop buffer to the memory is associated with vehicular data including at least one or powertrain management system information, electrical management system information, and chassis management system information (e.g. paragraph 34).

For claim 15, Basir et al teach interface with means for sensing the occurrence (e.g. paragraph 29, video analyzer).

For claim 16, Basir et al teach communicating the contents of the loop buffer via a communications network (e.g. paragraph 43).

For claim 17, Basir et al teach tagging the video data with a description of the contents of the loop buffer (e.g. paragraphs 34-36 and abstract).

6. Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basir et al (US 2003/0,154,009 A1), in view of Brodsky et al (US 2003/0,058,341 A1) and further in view of Krishnamurthy et al (US 6,496,607 B1), herein after referenced as Krishnamurthy.

In regards to claim 18, Basir teaches a method, comprising:

- storing in memory at least one of audio data and video data of an event, the video data comprising a series of picture frames (e.g. abstract, paragraph [0030], A/V data are stored in the circular buffer when an eccentric event has been detected; also see paragraph [0045] for audio data);
- storing at least one of the audio data and the video data in a loop buffer (e.g. abstract, paragraph [0030], circular buffer);
- receiving vehicular data describing powertrain management system information (e.g. paragraph [0034], data capture module gathers engine parameters, transmission status), electrical management system information (e.g. status lights), and chassis management system (e.g. airbag data) information;
- storing a set of rules specifying the vehicular data that causes a transfer of a contents of the loop buffer to the memory (e.g. paragraph [0037]-[0038], vehicle events and statistics is captured by the data capture module, the vehicle events and statistics corresponds to the claim “rules” because the system of Basir transfers the video data from the circular buffer to a storage device when the event happens);
- when the vehicular data satisfies a rule, then transferring the contents of the loop buffer to the memory to provide at least one of

time-delayed audio data and time-delayed video data, the time-delayed audio and the time-delayed video data preceding an event associated with the vehicular data that causes the transfer of the contents of the loop buffer to the memory; and (e.g. paragraph [0040]-[0041], occurrence of the eccentric event corresponds to the "rule");

- providing a manual switch in a vehicle for causing the transfer of the contents of the loop buffer to the memory; in response to activation of the switch, transferring the contents of the loop buffer to the memory (e.g. paragraph 41, user trigger); and
- tagging at least one of the time-delayed audio and the time-delayed video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory (e.g. the non-visual vehicle and occupant data described in paragraph [0034], [0038]-[0039] are stored as the event data, paragraph [0043], and figure 6, the data capture module's control unit transmitting the captured video and **data from the non-volatile** storage to the computer for recreation of the events and the statistics of the vehicle can be view for accident recreation purposes. Therefore, the examiner considers the "data from the non-volatile storage" corresponds to the claimed metadata since the "data from the non-volatile storage" describes the statistics of a

car accident (event), wherein the examiner has already the "event" corresponds to the claimed "rule" above).

Basir fails to teach when the vehicular data matches the particular occurrence specified in the set of rules. Brodsky teaches when the vehicular data matches the particular occurrence specified in the set of rules (see e.g. abstract, paragraphs 9-13). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Brodsky et al into the teaching of Basir et al for consistent video based detection of specific event (Brodsky et al, paragraph 8).

Basir and Brodsky fail to teach the first bitrate associated with the region of interest and second bitrate associated with region of disinterest. Krishnamurthy teaches the first bitrate associated with the region of interest and second bitrate associated with region of disinterest (e.g. column 6, line 38- column 7, line 10, the region of interest is provided with a smaller quantization scale whereas regions of non-interest are provided with a larger quantization scale; a higher quantization scale reduces the numbers of coding bits, whereas a lower quantization scale increases the number of coding bits). It would have been obvious for one ordinary skill in the art at the time the invention was made to incorporate the teaching of Krishnamurthy into the teaching of Basir and Brodsky to increase the quality of or resolution for the region of interest (Krishnamurthy et al, column 7, lines 5-10).

**Regarding claim 20**, Krishnamurthy teaches applying a set of rules to dynamically vary the bit rate of the transferred contents of the loop buffer (e.g. column 6, line 45- column 7, line 10, different coding standards for various areas of the frame

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according to the difference in importance and the bit rate of the data stream is vary due to this reason).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir, Brodsky and Zimmerman as applied to claims 1,2, 6,7, 8,9, 10 and further in view of official notice

See the teaching of Basir, Brodsky and Zimmerman above.

**Regarding claim 3**, Basir, Brodsky and Zimmerman fail to specify the file system 17 is a mass-storage device. The examiner takes official notice for the mass-storage device. It would have been obvious for one ordinary skill in the art at the time the invention was made to have utilized a mass-storage device as a file system to increase the storage capacity.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir, Brodsky and Zimmerman as applied to claims 1, 2, 6,7, 8,9, 10 and further in view of official notice.

See the teaching of Basir, Brodsky and Zimmerman above.

**Regarding claim 4**, Basir, Brodsky and Zimmerman fail to specify the file system 17 is an optical storage device. The examiner takes official notice for the optical storage device. It would have been obvious for one ordinary skill in the art at the time the invention was made to have utilized an optical storage as a file system to increase the storage capacity.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir, Brodsky and Zimmerman, as applied to claims 1,2, 6, 7, 8, 9,10 and further in view of official notice.

See the teaching of Basir, Brodsky and Zimmerman above.

**Regarding claim 5,** Basir, Brodsky and Zimmerman fail to specify the file system 17 is a flash memory storage device. The examiner takes official notice for the flash memory storage device. It would have been obvious for one ordinary skill in the art at the time the invention was made to have utilized a mass-storage device as a file system to increase the storage capacity.

10. Claim19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir, Krishnamurthy and Brodsky , as applied to claims 18 and 20 above, and further in view of Zimmerman et al (US 2005/0,021,197 A1).

See the teaching of Basir, Krishnamurthy and Brodsky above.

**For claim19,** Basir et al, Brodsky et al and Krishnamurthy et al fail to teach receiving the vehicular data comprises receiving data representing an output from at least one or a yaw, a pitch, and a roll accelerometer. Zimmerman et al teach receiving the vehicular data comprises receiving data representing an output from at least one or a yaw, a pitch, and a roll accelerometer (e.g. paragraph [0029]). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Zimmerman et al into the teaching of Basir et al, Brodsky et al and

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Krishnamurthy et al to reduce the cost for error inspection and diagnostic for a vehicle (e.g. Zimmerman et al, paragraph [0006]).

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir and Brodsky as applied to claims 11, 13, 15, 16 and 17 above, and further in view of Zimmerman et al (US 2005/0,021,197 A1).

See the teaching of Basir and Brodsky above.

**For claim 14**, Basir and Brodsky fail to teach receiving the vehicular data comprises receiving data representing an output from at least one or a yaw, a pitch, and a roll accelerometer. Zimmerman et al teach receiving the vehicular data comprises receiving data representing an output from at least one or a yaw, a pitch, and a roll accelerometer (e.g. paragraph [0029]). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Zimmerman et al into the teaching of Basir et al and Brodsky et al to reduce the cost for error inspection and diagnostic for a vehicle (e.g. Zimmerman et al, paragraph [0006]).

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basir and Brodsky as applied to claims 11, 13, 15, 16 and 17 above, and further in view of Official Notice.

See the teaching of Basir and Brodsky above.

**Regarding claim 12**, Basir and Brodsky fail to specify the file system 17 is an optical storage device. The examiner takes official notice for the optical storage device. It would have been obvious for one ordinary skill in the art at the time the invention was



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made to have utilized an optical storage as a file system to increase the storage capacity.

### ***Double Patenting***

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1, 3,4, 5,6,7, provisionally rejected on the ground of nonstatutory double patenting over claims 1-7, 10-11(these claims filed on 9/25/2008) of copending Application No. 10/674,770, hereinafter referred to as #770 and further in view of Zimmerman (see above). This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

For claim 1 of the instant application, #770 teaches a method, comprising:

storing in memory at least one of audio data and video data of an event, the video data comprising a series of picture frames (see second paragraph of claim 1 of #770); storing at least one of the audio data and the video data in a loop buffer (see second paragraph of claim 1 of #770); receiving vehicular data describing powertrain management system information, electrical management system information, and chassis management system information (e.g. see claim 11 of #770), storing a set of rules specifying data that causes a transfer of contents of the loop buffer to the memory (e.g. see paragraph 3 of claim 1 of #770); when the vehicular data matches the data specified by the set of rules, then transferring the contents of the loop buffer to the memory, the contents providing at least one of time-delayed audio data and time-delayed video data, the time-delayed audio data and the time-delayed video data preceding an event associated with the vehicular data that causes the transfer of the contents of the loop buffer to the memory (see paragraph 5 of claim 1 of #770); and tagging at least one of the time-delayed audio data and the time-delayed video data with metadata describing a rule of the set of rules that caused the contents of the loop buffer to be transferred to the memory (e.g. see paragraph 6 of claim 1 of #770).

#770 fails to teach the powertrain management system information comprising an error code associated with powertrain system. Zimmerman teaches the powertrain management system information comprising an error code associated with powertrain system (e.g. paragraph 24, diagnostic error codes flag by engine or powertrain management system). It would have been obvious to one ordinary skill in the art at the

time the invention was made to incorporate the teaching of Zimmerman into the teaching of #770 for efficiency error detection.

For claims 3, 4, 5, 6 and 7 of the instant applications are similar to claims 2, 3, 5, 6, 10 of #770, respectively.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

15. Claim 18 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 2 of copending Application No. 10/674840 (#840) filed on 7/15/2008 and further in view of Basir et al (US 2003/0,154,009 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because

For claim 18, #840 teaches a method, comprising: storing in memory at least one of audio data and video data of an event, the video data comprising a series of picture frames (e.g. paragraph 1 of claim 1 of #840); storing at least one of the audio data and the video data in a loop buffer (e.g. paragraph 2 of claim 1 of #840); specifying i) multiple regions of interest within a single picture frame and ii) multiple regions of disinterest within the single picture frame (e.g. paragraph 3 of claim 1 of #840); storing a set of rules specifying data that cause a transfer of content of loop buffer to memory (e.g. paragraph 3 of claim 1 of #840); when the vehicular data matches the data

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specified in the set of rules, then transferring the contents of the loop buffer to the memory, the contents of the loop buffer transferred at a first bitrate associated with the multiple regions of interest if the vehicular data is associated with the multiple regions of interest (e.g. claim 2 of #840) and the contents of the loop buffer transferred at a second bitrate associated with the multiple regions of disinterest if the vehicular data is associated with the multiple regions of disinterest (e.g. claim 2 of #840), the contents of the loop buffer providing at least one of time-delayed audio data and time-delayed video data, the time-delayed audio data and the time-delayed video data preceding in time an event associated with the vehicular data that causes the transfer of the contents of the loop buffer to the memory (e.g. paragraph 2 of claim 1 of #840);

#840 fails to teach providing a manual switch in a vehicle for causing the transfer of the content of the loop buffer to the memory; in responds to activation of the switch, transferring the contents of the loop buffer to the memory; and tagging at least one of the time-delayed audio and time-delayed video data with metadata describing a rule of the set of rules that caused the contents of the loop buffer to be transferred to the memory.

Basir teaches providing a manual switch in a vehicle for causing the transfer of the contents of the loop buffer to the memory; in response to activation of the switch, transferring the contents of the loop buffer to the memory (e.g. paragraph 41, user trigger); and tagging at least one of the time-delayed audio and the time-delayed video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory (e.g. the non-visual vehicle and occupant data described in

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paragraph [0034], [0038]-[0039] are stored as the event data, paragraph [0043], and figure 6, the data capture module's control unit transmitting the captured video and **data from the non-volatile** storage to the computer for recreation of the events and the statistics of the vehicle can be view for accident recreation purposes. Therefore, the examiner considers the "data from the non-volatile storage" corresponds to the claimed metadata since the "data from the non-volatile storage" describes the statistics of a car accident (event), wherein the examiner has already the "event" corresponds to the claimed "rule" above).

It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Basir into the teaching of #840 for user conveniently to record video data of his/her choice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daquan Zhao whose telephone number is (571) 270-1119. The examiner can normally be reached on M-Fri. 7:30 -5, alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai Q, can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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